

## Message Text

UNCLASSIFIED

PAGE 01 TEHRAN 08432 01 OF 02 190947Z

11

ACTION NEA-10

INFO OCT-01 ISO-00 CIAE-00 COME-00 EB-07 INR-07 LAB-04

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FM AMEMBASSY TEHRAN

TO SECSTATE WASHDC 8707

UNCLAS SECTION 1 OF 2 TEHRAN 8432

EO 11652: NA

TAGS: ELAB, EFIN, SWEL, IR

SUB: IRANIAN SOCIAL SECURITY LAW

SUMMARY: A NEW COMPREHENSIVE LAW, KNOWN AS THE "SOCIAL SECURITY LAW," HAS PASSED THE IRANIAN PARLIAMENT AND WILL COME INTO EFFECT WHEN ASSENTED TO BY THE SHAH. THE NEW LAW WILL AMALGAMATE PROVISIONS OF THE PRESENT LAW FOR THE PROTECTION OF EMPLOYEES (HEREINAFTER REFERRED TO AS "LAW FOR PROTECTION"), COVERING EMPLOYEES AND OTHER SOCIAL SECURITY PROVISIONS COVERING WAGE EARNERS. IT PROVIDES FOR COVERAGE FOR ALL FOREIGN NATIONALS WORKING IN IRAN. UNLESS ARRANGEMENTS ARE MADE TO CONTINUE THE EXEMPTION OF EXPATRIATE EMPLOYEES, AMERICAN CITIZENS AND AMERICAN CORPORATIONS EMPLOYING EXPATRIATES WILL BE OBLIGED TO PAY INTO THIS SYSTEM REGARDLESS OF WHETHER THEY ALSO CONTRIBUTE TO THE U.S. SOCIAL SECURITY SYSTEM. BECAUSE THE AMOUNT OF CONTRIBUTION ON A PERCENTAGE OF SALARY BASIS IS SIGNIFICANTLY HIGHER THAN THE U.S. SYSTEM, LACK OF EXEMPTION WOULD CONSTITUTE A FINANCIAL BURDEN FOR INDIVIDUALS AND WOULD ESCALATE THE COST OF DOING BUSINESS IN IRAN FOR CORPORATIONS. THE NEW LAW IS PATTERNED VERY MUCH ALONG THE LINES OF THE U.S. SOCIAL SECURITY SYSTEM PARTICULARLY WITH REFERENCE TO TIME REQUIRED FOR QUALIFICATION AND PAYMENT OF BENEFITS. END SUMMARY

BACKGROUND

1. IN 1975 A NEW IRANIAN SOCIAL SECURITY LAW WAS DRAFTED

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PAGE 02 TEHRAN 08432 01 OF 02 190947Z

TO PROVIDE A COMPREHENSIVE SYSTEM OF BENEFITS, INCLUDING

RETIREMENT, MEDICAL AND MATERNITY, LOSS OF EARNINGS, DISABILITY AND DEATH TO COVER ALL GOVERNMENT, GOVERNMENT-AFFILIATED AND PRIVATE COMPANY EMPLOYEES. IT WILL BE EXTENDED GRADUALLY TO COVER FARMERS AND FARM WORKERS AS WELL.

2. ALSO COVERED ARE ALL FOREIGN NATIONALS EMPLOYED IN IRAN, ACCORDING TO ARTICLE 5 OF THE ACT WHICH READS, "FOREIGN NATIONALS WORKING IN IRAN ACCORDING TO THE LAWS AND REGULATIONS ARE COVERED BY THIS LAW UNLESS OTHER ARRANGEMENTS ARE IN FORCE FOR THEM UNDER BILATERAL OR MULTILATERAL AGREEMENTS BETWEEN IRAN AND OTHER COUNTRIES, AND PROVIDED THEY ARE NOT ALREADY COVERED BY THE LAW FOR THE PROTECTION OF EMPLOYEES AGAINST THE EFFECTS OF OLD AGE, DISABILITY AND DEATH."

3. THE NEW LAW RECENTLY PASSED BOTH HOUSES OF THE IRANIAN PARLIAMENT. IT WILL TAKE EFFECT AT SUCH TIME AS THE SHAH ASSENTS. (TIMING IS UNCERTAIN, BUT IT COULD HAPPEN IN THE NEAR FUTURE.) WHEN THE NEW LAW ENTERS INTO FORCE, IT WILL SUPERSEDE THE LAW FOR THE PROTECTION OF EMPLOYEES.

#### EXEMPTIONS UNDER CURRENT LAW

4. IN THE PAST, EXPATRIATE EMPLOYEES AND EMPLOYERS HAVE BEEN EXEMPTED FROM CONTRIBUTING TO THE SOCIAL SECURITY SCHEME UNDER AN AD HOC PROCEDURE REQUIRING A LETTER FROM THE INDIVIDUAL'S EMBASSY CONFIRMING THAT THE INDIVIDUAL IS ALREADY A CONTRIBUTOR TO A RECOGNIZED SOCIAL INSURANCE SYSTEM. IN THE CASE OF THE UNITED STATES, THE LETTER ALSO STATES THAT UNDER US LAW COMPANIES ARE REQUIRED TO MAKE ON THEIR OWN BEHALF, AND TO DEDUCT FOR THEIR EMPLOYEES, CONTRIBUTIONS TO THE UNITED STATES SOCIAL SECURITY SYSTEM. THIS LETTER, IN CONJUNCTION WITH COMPANY PAYROLL RECORDS AND/OR COPIES OF THE EMPLOYEE'S IDENTIFYING UNITED STATES SOCIAL SECURITY CARD, HAS PERMITTED EXPATRIATES TO APPLY FOR AND TO RECEIVE EXEMPTIONS. PROVISION FOR THESE EXEMPTIONS IS NOT EMBODIED IN THE LAW FOR PROTECTION, HOWEVER. THE AD HOC PROCEDURE DERIVES FROM A COUNCIL OF MINISTERS DECREE, ISSUED SUBSEQUENT TO THE ENTERING IN FORCE OF THE CURRENT LAW.

UNCLASSIFIED

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PAGE 03     TEHRAN 08432 01 OF 02 190947Z

#### EXEMPTIONS UNDER NEW LAW

5. ACCORDING TO THE PROVISION OF THE NEW IRANIAN SOCIAL SECURITY LAW (ARTICLE 5, CITED ABOVE), EXEMPTIONS WILL NOT BE AUTHORIZED UNLESS "OTHER ARRANGEMENTS ARE IN FORCE FOR THEM UNDER BILATERAL OR MULTILATERAL AGREEMENTS BETWEEN IRAN AND OTHER COUNTRIES." AS FAR AS WE ARE AWARE, THERE ARE NO EXISTING ARRANGEMENTS, EITHER

BILATERAL OR MULTILATERAL TO WHICH IRAN AND THE UNITED STATES ARE  
A PARTY WHICH WOULD ENABLE EXPATRIATE EMPLOYEES TO BE EXEMPT FROM  
THE TOTAL CONTRIBUTION OF 27 PERCENT OF THE EMPLOYEE'S SALARY.

6. OTHER PROVISIONS OF THE LAW INCLUDE THE FOLLOWING:

A. AMOUNT OF CONTRIBUTION

THE TOTAL CONTRIBUTION LEVIED UNDER THE NEW LAW IS 30 PERCENT  
(7PERCENT INDIVIDUAL, 20 PERCENT CORPORATE, 3 PERCENT GOVERNMENT)  
OF AN EMPLOYEE'S SALARY UP TO RS. 60,410.00/MONTH(APPROXIMATELY  
\$10,000 PER YEAR).

B. MEDICAL BENEFITS

THE COMPREHENSIVE LAW INCLUDES ROUTINE MEDICAL BENEFITS (NOT  
INCLUDED IN US LAW).

C. CLAIMING OF BENEFITS

WORKERS MUST HAVE CONTRIBUTED FOR THE EQUIVALENT OF TEN YEARS  
AND REACH AGE 60 TO CLAIM RETIREMENT BENEFITS. WITHDRAWAL OF  
CONTRIBUTIONS PRIOR TO MEETING THIS REQUIREMENT ARE NOT  
AUTHORIZED.

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PAGE 01 TEHRAN 08432 02 OF 02 190955Z

12

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UNCLAS SECTION 2 OF 2 TEHRAN 8432

DISCUSSION

7. AMERICAN COMPANIES AND INDIVIDUALS EMPLOYED HERE HAVE EXPRESSED CONCERN OVER THE LACK OF PROVISION IN THE NEW SOCIAL SECURITY LAW FOR EXEMPTIONS. CONSEQUENTLY, MANY AMERICAN COMPANIES IN COSTING OF PROPOSALS AND CONTRACTS ARE ADDING UP TO 30 PERCENT TO COMPENSATE FOR WHAT THEY SEE AS AN INCREASED COST OF DOING BUSINESS IN FUTURE YEARS IN IRAN. WHILE IT IS PREMATURE TO JUDGE, IT MAY BE FOUND THAT THIS WILL PLACE U.S. COMPANIES AT A COMPETITIVE DISADVANTAGE WITH OTHER EXPATRIATE FIRMS WHOSE NATIONAL SOCIAL SYSTEMS ARE MORE FLEXIBLE THAN OURS AND/OR ARE FROM COUNTRIES THAT HAVE NEGOTIATED AGREEMENTS EXEMPTING THEM FROM THE PROVISIONS OF THE NEW LAW.

8. WE HAVE CHECKED INFORMALLY WITH SEVERAL LOCAL EMBASSIES AND FOUND THE FOLLOWING:

(A) UK--HAS NO TAX TREATY OR OTHER AGREEMENT COVERING THIS SUBJECT. BRITISH CITIZENS WORKING OVERSEAS MAY OPT IN OR OUT OF UK SYSTEM AS THEY WISH. THUS, BRITISH BUSINESSMEN CONTRIBUTING IN IRAN WOULD NOT BE TAXED DOUBLY UNLESS THEY REQUEST TO CONTINUE CONTRIBUTIONS TO UK SYSTEM TO PROTECT FUTURE BENEFITS IN UK.

(B) FRANCE--DOES HAVE DOUBLE TAXATION TREATY SIGNED ABOUT ONE YEAR AGO. FRENCH EMBASSY BELIEVES THERE IS AN AGREEMENT REFERRING SPECIFICALLY TO SOCIAL SECURITY PAYMENTS AND HAS SENT TO PARIS FOR UNCLASSIFIED

UNCLASSIFIED

PAGE 02    TEHRAN 08432 02 OF 02 190955Z

A COPY AS NO VERSION EXTANT HERE. IT PRESENTLY ASSUMES FRENCH FIRMS COULD APPLY FOR EXEMPTION UNDER TREATY. IN PRACTICE, FRENCH BUSINESSMAN WILL PROBABLY CONTRIBUTE IN IRAN AS MOST FRENCH FIRMS AND INDIVIDUALS PAY AND RECEIVE SALARIES IN RIALS (RATHER THAN FRANCS) UPON WHICH CONTRIBUTIONS TO THE FRENCH SYSTEM ARE NOT LEVIED. FRENCH COMPANIES WILL PROBABLY CONTINUE CONTRIBUTIONS TO FRENCH SYSTEM FOR MEDICAL BENEFITS ONLY, HOWEVER, SO THAT EMPLOYEES ARE COVERED ON HOLIDAYS AND FOR FULLER MEDICAL BENEFITS THAN GOI SYSTEM MAY PROVIDE.

(C) GERMANY--HAS DOUBLE TAXATION TREATY WITH IRAN AND PROBABLY CAN BE EXEMPTED ON RECIPROCAL BASIS.

9. THE GOI IS WELL AWARE (FROM PERSONAL EXPERIENCE OF VARIOUS MEMBERS OF THE GOVERNMENT AND OTHERWISE) OF THE CONDITIONS, LIMITATIONS, AND REQUIREMENTS OF THE U.S. SOCIAL SECURITY SYSTEM. INDEED, ITS NEW SOCIAL SECURITY LAW IS MODELED LARGELY ON U.S. SYSTEM. ACCORDINGLY, WE BELIEVE IT IS HIGHLY UNLIKELY THAT IT WILL AGREE TO CONTINUATION ON A UNILATERAL BASIS OF THE AD HOC EXEMPTION THAT HAS BEEN EXTENDED TO AMERICANS CONTRIBUTING TO THE U.S. SOCIAL SECURITY SYSTEM. I OTHER WORDS, IT IS LIKELY TO INSIST ON THE APPLICATION OF ITS LAW TO AMERICAN EMPLOYEES AND EMPLOYERS IN IRAN IN THE SAME MANNER THAT U.S. LAWS APPLY TO IRANIAN EMPLOYEES AND EMPLOYERS IN THE U.S., UNLESS RECIPROCAL

EXEMPTIONS CAN BE PROVIDED FOR.

10. ACTION REQUESTED: PLEASE ADVISE WHETHER OFFER OF RECIPROCAL  
EXEMPTION POSSIBLE UNDER U.S. LAW OR REGULATION. IF NOT, ADVISE  
BASIS ON WHICH WE MIGHT APPROACH GOI SEEKING AN EXCEPTION TO AVOID  
PLACING AMERICAN EMPLOYEES AND EMPLOYERS IN DOUBLE TAXATION POSTURE.  
AMERICAN BUSINESS COMMUNITY HERE IS QUITE CONCERNED OVER POSSIBLE  
IMMINENT IMPLEMENTATION OF NEW IRANIAN LAW AND LOOKING TO USG FOR  
PROMPT RELIEF AND/OR GUIDANCE. POST WOULD APPRECIATE INTERIM  
ACKNOWLEDGMENT IF LEGAL MEMORANDUM WILL TAKE EXTENDED PERIOD OF  
TIME. (COPIES OF NEW LAW BEING POUCHED.)  
HELMS

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